IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 25TH JUNE 2007 / 4TH ASHADHA 1929

WP(C).No. 19308 of 2004(W)

I.A.1773/04 IN OS.313/2003 of PRL.MUNSIFF COURT,NEDUMANGAD

.....

PETITIONER:

V.BAHULEYAN, AGED 40 YEARS,
S/O. VISWANATHAN, RESIDING AT VIJESH BHAVAN,
KOTTAKKAKAM, NOW RESIDING AT GEETHA BHAVAN,
MANGALACKAL, KATTAKADA, KULATHUMMAL VILLAGE,
TRIVANDRUM.

BY ADV. SRI.T.A.UNNIKRISHNAN
SRI.K.SATHEESH KUMAR
SMT.RESHMI POULOSE

RESPONDENT:

CHANDRAMOHAN, AGED 43 YEARS,
RESIDING AT T.C.25/145(1), GANDHARI AMMANKOVIL ROAD
TRIVANDRUM.

BY ADV. SRI.M.RAMACHANDRAN NAIR
SRI.J.HARIKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.13908/04

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE PHOTO COPY OF AMENDMENT APPLICATION.

EXT.P2 – TRUE COPY OF ORDER DT.10.6.04 IN I.A.1773/04 IN O.S.313/03 OF PRL. MUNSIFF'S COURT, NEDUMANGAD.

RESPONDENT'S EXTS:

EXT.R1 – TRUE COPY OF AFFIDAVIT FILED BEFORE MUNSIFF'S COURT.

EXT.R1(A) – TRUE COPY OF PETITION FILED BEFORE DO.

EXT.R2 – TRUE COPY OF SUIT FOR REALISATION OF MONEY.

EXT.R3 – TRUE COPY OF WRITTEN STATEMENT FILED BEFORE MUNSIFF'S COURT.

EXT.R4 – TRUE COPY OF OBJECTION FILED BEFORE DO.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

.....

W.P.(C)No.19308 OF 2004

.....

DATED THIS THE 25TH JUNE, 2007

J U D G M E N T

Ext.P2 order by which the belated application filed by the plaintiff for amendment was dismissed by the learned Munsiff inter alia on the reason that the application has been filed after the commencement of trial and that it is not even claimed by the applicant in the affidavit in support of the application that in spite of exercise of due diligence, he could not have made the application earlier.

2. I have heard Mr.T.A.Unnikrishnan, counsel for the petitioner and Mr.Poovappally M.Ramachandran Nair, counsel for the respondent at length.

3. I have carefully gone through the impugned order and the copies of the plaint and the amendment application which have been made available for my perusal by the learned counsel. Having gauged Ext.P2 by the yardsticks which are applicable to exercise of supervisory jurisdiction by this Court under Article 227, it has to be agreed when Mr.Ramachandran Nair submits that Ext.P2 is not vitiated by infirmities to such an extent as to warrant interference under the supervisory jurisdiction. The challenge against Ext.P2 fails and the Writ Petition is dismissed. However, it is made clear that the dismissal of the

amendment application by the trial court and the refusal by this Court to interfere with such dismissal will not stand in the way of the petitioner urging before the court of appeal (in the event of the suit being decreed against him) that the court below was not justified in dismissing the amendment application.

(PIUS C.KURIAKOSE, JUDGE)

tgl